

## REMARKS

No claims have been cancelled or added. Claims 5, 6, 15, 17, 24, 29, 31, 50, 51, 54, and 58 have been amended. Claims 2-27, 29-48, and 50-58 are currently pending in the application. In view of the following remarks, Applicant respectfully requests withdrawal of the rejections and forwarding of the application onto issuance.

### The § 112 Rejections

Claims 3, 48, 53, and 55 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office argues that the following features contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) had possession of the claimed subject matter at the time the application was filed [emphasis in original]:

- “information pertains *to a user* of the cellular phone” (claims 3, 53, and 55)
- “automatically adjust one or more of its settings so that it behaves in a manner that has been defined for that location *by someone other than a user* of the cell phone” (claim 48)

Applicant traverses these rejections. Applicant respectfully refers the Office to the “Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112, 1, ‘Written Description’ Requirement” (found both at 66 FR 1099 and MPEP § 2163). Specifically, Applicant respectfully directs

1 the Office's attention to Section II, the most relevant portions of which are  
2 reproduced below [emphasis added]:

3 There is a ***strong presumption*** that an adequate written  
4 description of the claimed invention is present in the  
5 specification as filed. . . . Consequently, rejection of an  
original claim for lack of written description should be ***rare***.

6 With respect to the rejection of **claim 3**, the claim feature at issue,  
7 "information pertains ***to a user*** of the cellular phone," is original (i.e., was  
8 present in the application as filed). The same feature appears in **claims 53**  
9 **and 55**; accordingly, the claim feature at issue in the rejection of claims 53  
10 and 55 are also original. Given these facts, according to Section II of the  
11 Guideline, the Office would seem to have a very high burden in sustaining  
12 the rejection of these claims as this type of rejection should be "rare."

13 Section III of the Guideline details how the Office should meet its  
14 burden. The most relevant portions of Section III are also reproduced below  
15 [emphasis added]:

16 A description as filed is presumed to be adequate, unless or  
17 until ***sufficient evidence or reasoning*** to the contrary has  
18 been presented by the examiner to rebut the presumption. The  
19 examiner, therefore, must have a ***reasonable basis*** to  
20 challenge the adequacy of the written description. The  
21 examiner has the initial burden of presenting by a  
22 preponderance of evidence ***why*** a person skilled in the art  
23 would not recognize in an applicant's disclosure a description  
24 of the invention defined by the claims. In rejecting a claim,  
25 the examiner must set forth ***express findings of fact*** regarding  
the above analysis which support the lack of written  
description conclusion. The findings should . . . (2) [e]stablish  
a prima facie case by ***providing reasons why*** a person skilled  
in the art at the time the application was filed would not have  
recognized that the inventor was in possession of the

1 invention as claimed in view of the disclosure of the  
2 application as filed.

3 The *entirety* of the Office's rejection of claims 3, 53, and 55 is  
4 reproduced below [emphasis in original]:

5 Claims 3, 53, 55 recite the limitation "information pertains to  
6 a **user** of the cellular phone", this contains subject matter  
7 which was not described in the specification in such a way as  
8 to reasonably convey to one skilled in the relevant art that the  
inventor(s), at the time the application was filed, had  
possession of the claimed invention.

9 Applicant is doing its best to further prosecution of this application,  
10 but the Office has not provided Applicant with any *evidence or reasoning*  
11 to explain its rejections of claims 3, 53, and 55, nor has it provided  
12 Applicant with any *findings of fact or reasons why* the Office alleges that  
13 Applicant did not have possession of the claimed subject matter at the time  
14 the application was filed. Applicant respectfully submits that the Office has  
15 *not* met its burden of overcoming the strong presumption that Applicant's  
16 application meets the written description requirement outlined in 35 U.S.C.  
17 § 112, first paragraph. Applicant respectfully requests that the Office either  
18 withdraw the § 112 rejections for these claims or provide Applicant with  
19 *express findings of fact and reasons why* a person skilled in the art at the  
20 time the application was filed would not have recognized that the inventor  
21 was in possession of the invention as claimed in view of the disclosure of  
22 the application as filed. Applicant respectfully submits that it has fully  
23 complied with the written description requirement.  
24  
25

1 However, in the interest of expediting prosecution, the Office's  
2 attention is respectfully directed to the specification, page 5, lines 20-25,  
3 and page 7, lines 7-20, reproduced below [emphasis added]:

4 Step 1500 receives context information that pertains to the current  
5 context of a cell phone. Any suitable methods, techniques, or cell  
6 phone components can be used to receive this information. In  
7 addition, the context information can come from any type and/or  
8 number of context providers. Further, the context information can  
9 comprise any suitable type of context information. ***For example,  
location and user constitute two examples of specific context.*** (page  
5, lines 20-25)

#### 9 **Defining the World**

10 One of the problems to date with attempting to solve the context-  
11 aware computing problem is that every proposed solution has its  
12 own approach, data structures, processes and the like. There is little  
13 if any standardization between the various approaches. In the  
14 described embodiment, standardization is achieved at the  
15 foundational level by defining a universal view of the Earth. That is,  
16 a universally acceptable definition of the Earth is proposed and is  
17 useable in various computing scenarios to enable context-dependent  
18 computing. In this document, a specific example of context-  
19 dependent computing is given in the form of location dependent  
20 computing. It is to be understood that this constitutes but one  
21 example of a context in which the various embodiments discussed  
22 below can be employed. Other "contexts" can include, ***any  
information that can fit into a hierarchical structure including,  
without limitation, role/personnel in an organization,*** device  
23 categorizations, ***current activity,*** current environment, active devices  
24 and the like. (page 7, lines 7-20)

20 Applicant respectfully submits that these excerpts from the  
21 specification as filed demonstrate to one of ordinary skill in the art that  
22 Applicant had possession of the claimed subject matter at the time the  
23 application was filed. Accordingly, Applicant respectfully requests the  
24 Office to withdraw these rejections.

25 **Claim 48** recites a location-aware cell phone comprising:

- on-board componentry configured to:
  - o determine its location using only information that it receives; and
  - o automatically adjust one or more of its settings so that it behaves in a manner that has been *defined for that location by someone other than a user of the cell phone*.

In its Response to Arguments, the Office argues the following [emphasis in original]:

As to claim 48, Applicant's response filed on 4/5/04 regarding the support for the limitation of claim 48 in pages 15-17 is not persuasive. Here, the support is largely based on the feature of "transmitting cell phone setting information to cell phones by enforcement entities". However, it is noted that the feature of "transmitting cell phone setting information to cell phones by enforcement entities" does not involve the location information setting. Therefore, the disclosure as described in the specification, page 54, line 19-page 55, line 12 is similar to the disclosure described in PCT WO 99/55102 issued to **Te-eni, page 21, lines 1-4**, and fail to support the limitations of claim 48.

Applicant is confused by the Office's Response. This claim recites that settings can be adjusted so that they behave in a manner defined for that location *by someone other than a user of the cell phone*. In response to the Office Action dated March 4, 2004, Applicant directed the Office's attention to the specification at page 54, line 19 through page 55, line 12, , all of which are reproduced again below [emphasis added]:

In the described embodiment, cell phone settings and associated location information can be stored on the cell phone itself. Alternately, the cell phone is configured to receive cell phone setting information via application program interface/cell phone settings module 1402. *Specifically, in one embodiment, a number of different settings enforcement entities 1418 can be provided that*

1 *are responsible for transmitting cell phone settings information to*  
2 *cell phones that are in their vicinity. In the described example,*  
3 *such entities can include, without limitation, Blue Tooth entities,*  
4 *location beacons (as described above), diffused IR entities and the*  
5 *like.* These entities transmit cell phone settings information that is  
received by the cell phone via interface 1402. This information is  
passed to the cell phone setting engine 1404 which then ensures that  
the cell phones is set to the proper setting.

6 Also included in this architecture is a source of location-based  
7 settings 1414, and a source of well-defined locations 1416.  
8 *Location-based settings can come from any suitable source. For*  
9 *example, the settings can come from the settings enforcement*  
10 *entities mentioned above.* Alternately, the location-based settings  
can be stored on the cell phone. Examples of this are given below.  
Similarly, the well-defined locations 1416 can come from any  
suitable source either on or off the device.

11 Additional support from the specification can be found at page 54,  
12 lines 13-18, reproduced below:

13 In a movie theater, as noted above, it is common courtesy to turn  
14 one's cell phone off or place it in vibrate mode. Yet, many people  
15 forget or *refuse to do so.* Given the techniques and structures  
16 described above and below, cell phones that are determined to be in  
the location of a movie theater can *automatically adjust their*  
17 *behavior to conform to acceptable norms.*

18 As shown, in at least one embodiment, the cell phone's on-board  
19 componentry is configured to automatically adjust one or more of its  
20 settings so that it behaves in a manner that has been defined for that  
21 location *by someone other than a user of the cell phone.* This makes sense  
22 when one considers that Applicant's inventive concepts apply even to those  
23 users who *refuse* to voluntarily conform to acceptable norms.

24 Accordingly, Applicant respectfully submits that this claim is  
25 allowable and that there is adequate support in the specification for the

1 highlighted feature. Furthermore, Applicant does not understand the  
2 relevance of Te-eni's disclosure as a rationale for the Office's rejection of  
3 this claim under 35 U.S.C. § 112, paragraph 1. Applicant respectfully  
4 requests that the Office either withdraw the § 112 rejection of this claim or  
5 provide Applicant with *express findings of fact* and *reasons why* a person  
6 skilled in the art at the time the application was filed would not have  
7 recognized that the inventor was in possession of the invention as claimed  
8 in view of the disclosure of the application as filed.

9  
10 **The § 102 Rejections**

11 **Claims 6, 8-9, 11-12, 14-18, 21-27, 29-30, 36, 38, 40, 41, 54, and**  
12 **57-58** stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S.  
13 Patent No. 6,389,288 to Kuwahara (hereinafter "Kuwahara").

14 **Claims 24-27, 29-30, and 58** stand rejected under 35 U.S.C.  
15 § 102(e) as being anticipated by U.S. Patent No. 6,201,973 to Kowaguchi et  
16 al (hereinafter "Kowaguchi").

17  
18 **The § 103 Rejections**

19 **Claims 7, 10, 19-20, 31-35, 37, 39, and 42-47** stand rejected under  
20 35 U.S.C. § 103(a) as being unpatentable by Kuwahara.

21 **Claim 13** stands rejected under 35 U.S.C. § 103(a) as being  
22 unpatentable by Kuwahara in view of PCT WO 99/55102 to Te-eni  
23 (hereinafter "Te-eni").  
24  
25

1       **Claims 50-52** stand rejected under 35 U.S.C. § 103(a) as being  
2 unpatentable by Kuwahara in view of U.S. Patent No. 6,104,344 to Wax  
3 (hereinafter “Wax”).

4       **Claims 2, 5, 6, 11, and 14** stand rejected under 35 U.S.C. § 103(a)  
5 as being unpatentable by U.S. Patent No. 6,233,448 to Alperovich  
6 (hereinafter “Alperovich”).

7       **Claims 4, 50-52, and 56** stand rejected under 35 U.S.C. § 103(a) as  
8 being unpatentable by Alperovich in view of Wax.

9       **Claims 7-12, 14-27, 29-47, 54, and 57-58** stand rejected under  
10 35 U.S.C. § 103(a) as being unpatentable by Alperovich in view of  
11 Kuwahara.

12  
13       **Claims 2-5**

14       As amended, **claim 5** recites a cellular phone comprising [amended  
15 language appears in bold italics]:

- 16       • one or more processors configured to:
- 17           ○ receive information that pertains to a current context of  
18           the cellular phone;
- 19           ○ determine the current context based on the  
20           information;
- 21           ○ modify at least one behavior of the cellular phone  
22           responsive to the current context, *wherein at least one  
23           of said one behavior is defined by a third party*; and
- 24       • an application program interface that is configured to  
25       wirelessly receive information that is associated with the  
phone’s context.

Applicant has amended this claim to clarify that at least one behavior  
of the cellular phone is defined by a *third party*. In making out the rejection



1 of this claim, the Office argues that Alperovich suggests the subject matter  
2 of this claim. However, Applicant has thoroughly reviewed Alperovich and  
3 can find no teaching or suggestion of modifying at least one behavior of a  
4 cellular phone where at least one of the modified behaviors is *defined by a*  
5 *third party*. Rather, Alperovich explicitly teaches that the coordinates of  
6 each of its activation locations and the corresponding action codes are  
7 entered by the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's  
8 action codes were analogous to Applicant's modified behaviors (Applicant  
9 expresses no opinion regarding that issue), Alperovich would teach *directly*  
10 *away* from Applicant's claimed subject matter.

11 Accordingly, for at least these reasons, the Office has failed to  
12 establish a *prima facie* case of obviousness, and this claim is allowable.

13 **Claims 2-4** depend from claim 5 and, as such, are allowable as  
14 depending from an allowable base claim. These claims are also allowable  
15 for their own recited features which, in combination with those recited in  
16 claim 5, are neither shown nor suggested by the references as cited and  
17 applied by the Office. In addition, given the Office's failure to establish a  
18 *prima facie* case of obviousness, the rejection of claim 4 over Wax is not  
19 seen to add anything of significance.

#### 20 21 **Claims 6-14**

22 As amended, **claim 6** recites a method of operating a cellular phone  
23 comprising [amended language appears in bold italics]:

- 24
- 25 • wirelessly receiving, with the cellular phone, information that  
pertains to a context of the cellular phone, the cellular phone

1 being configured to receive said information from different  
2 types of context providers that provide different forms of  
3 information;

- 4 • responsive to said receiving and using only the cellular phone  
5 and its associated on-board componentry, determining a  
6 cellular phone context and modifying at least one behavior  
7 associated with the cellular phone, *wherein at least one of*  
8 *said one behavior is defined by a third party.*

9 Applicant has amended this claim to clarify that at least one behavior  
10 associated with the cellular phone is defined by *a third party*. In making out  
11 the rejection of this claim, the Office argues that Alperovich suggests the  
12 subject matter of this claim. However, Applicant has thoroughly reviewed  
13 Alperovich and can find no teaching or suggestion of modifying at least one  
14 behavior associated with a cellular phone where at least one of the modified  
15 behaviors is *defined by a third party*. Rather, Alperovich explicitly teaches  
16 that the coordinates of each of its activation locations and the  
17 corresponding action codes are entered by the *subscriber* (see column 4,  
18 lines 21-26). *Even if* Alperovich's action codes were analogous to  
19 Applicant's modified behaviors (Applicant expresses no opinion regarding  
20 that issue), Alperovich would teach *directly away* from Applicant's claimed  
21 subject matter. The Office has thus failed to establish a *prima facie* case of  
22 obviousness.

23 In making out the rejection of this claim, the Office also argues that  
24 Kuwahara anticipates the subject matter of this claim. However, Kuwahara  
25 suffers from the same defect as Alperovich because Kuwahara explicitly  
teaches that the *user* sets a call incoming alert mode (see column 4, line 65,

1 through column 5, line 39). As such, Kuwahara would also teach *directly*  
2 *away* from Applicant's claimed subject matter.

3 Accordingly, for at least these reasons, this claim is allowable.

4 **Claims 7-14** depend from claim 6 and, as such, are allowable as  
5 depending from an allowable base claim. These claims are also allowable  
6 for their own recited features which, in combination with those recited in  
7 claim 6, are neither shown nor suggested by the references as cited and  
8 applied by the Office. In addition, given the Office's failure to establish a  
9 *prima facie* case of obviousness or anticipation, the rejection of claim 13  
10 over Te-eni is not seen to add anything of significance.

11  
12 **Claims 15-16**

13 As amended, **claim 15** recites one or more readable media having  
14 readable instructions thereon which, when executed by a cellular phone,  
15 cause the cellular phone to [amended language appears in bold italics]:

- 16
- 17 • wirelessly receive information from different context source  
18 information types that provide different forms of information  
19 that pertains to a context of the cellular phone; and
  - 20 • responsive to receiving the information, determine the  
21 cellular phone context and modify at least one behavior  
22 associated with the cellular phone, *wherein at least one of*  
23 *said one behavior is defined by a third party.*

24 Applicant has amended this claim to clarify that at least one cellular  
25 phone behavior is defined by *a third party*. In making out the rejection of  
this claim, the Office argues that the combination of Alperovich and  
Kuwahara suggests the subject matter of this claim. However, Applicant

1 has thoroughly reviewed Alperovich and Kuwahara and can find no  
2 teaching or suggestion of modifying at least one behavior of a cellular  
3 phone where at least one of the modified behaviors is *defined by a third*  
4 *party*. Rather, Alperovich explicitly teaches that the coordinates of each of  
5 its activation locations and the corresponding action codes are entered by  
6 the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's action  
7 codes were analogous to Applicant's modified behaviors (Applicant  
8 expresses no opinion regarding that issue), Alperovich would teach *directly*  
9 *away* from Applicant's claimed subject matter. Kuwahara suffers from the  
10 same defect as Alperovich because Kuwahara explicitly teaches that the  
11 *user* sets a call incoming alert mode (see column 4, line 65, through column  
12 5, line 39). As such, the combination of Alperovich and Kuwahara would  
13 also teach *directly away* from Applicant's claimed subject matter. The  
14 Office has thus failed to establish a *prima facie* case of obviousness.

15 In making out the rejection of this claim, the Office also argues that  
16 Kuwahara anticipates the subject matter of this claim. However, as  
17 discussed above, Applicant has reviewed the Kuwahara reference and can  
18 find no teaching of the subject matter of this claim.

19 Accordingly, for at least these reasons, this claim is allowable.

20 **Claim 16** depends from claim 15 and, as such, is allowable as  
21 depending from an allowable base claim. This claim is also allowable for  
22 its own recited features which, in combination with those recited in claim  
23 15, are neither shown nor suggested by the references as cited and applied  
24 by the Office.  
25

1        **Claims 17-23**

2        As amended, **claim 17** recites a cellular phone comprising [amended  
3        language appears in bold italics]:

- 4
- 5        • multiple different types of location providers which  
6        collectively are configured to receive different forms of  
7        location information that can be used by the cellular phone to  
8        ascertain its location; and
  - 9        • one or more processors configured to:
    - 10        ○ receive information associated with a current location  
11        of the cellular phone; and
    - 12        ○ modify at least one behavior of the cellular phone  
13        responsive to the information, *wherein at least one of*  
14        *said one behavior is defined by a third party.*

15        Applicant has amended this claim to clarify that at least one cellular  
16        phone behavior is defined by *a third party*. In making out the rejection of  
17        this claim, the Office argues that the combination of Alperovich and  
18        Kuwahara suggests the subject matter of this claim. However, Applicant  
19        has thoroughly reviewed Alperovich and Kuwahara and can find no  
20        teaching or suggestion of modifying at least one behavior associated with a  
21        cellular phone where at least one of the modified behaviors is *defined by a*  
22        *third party*. Rather, Alperovich explicitly teaches that the coordinates of  
23        each of its activation locations and the corresponding action codes are  
24        entered by the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's  
25        action codes were analogous to Applicant's modified behaviors (Applicant  
      expresses no opinion regarding that issue), Alperovich would teach *directly*  
      *away* from Applicant's claimed subject matter. Kuwahara suffers from the  
      same defect as Alperovich because Kuwahara explicitly teaches that the

1 *user* sets a call incoming alert mode (see column 4, line 65, through column  
2 5, line 39). As such, the combination of Alperovich and Kuwahara would  
3 also teach *directly away* from Applicant's claimed subject matter. The  
4 Office has thus failed to establish a *prima facie* case of obviousness.

5 In making out the rejection of this claim, the Office also argues that  
6 Kuwahara anticipates the subject matter of this claim. However, as  
7 discussed above, Applicant has reviewed the Kuwahara reference and can  
8 find no teaching of the subject matter of this claim.

9 Accordingly, for at least these reasons, this claim is allowable.

10 **Claims 18-23** depend from claim 17 and, as such, are allowable as  
11 depending from an allowable base claim. These claims are also allowable  
12 for their own recited features which, in combination with those recited in  
13 claim 17, are neither shown nor suggested by the references as cited and  
14 applied by the Office. In addition, given the Office's failure to establish a  
15 *prima facie* case of obviousness, the rejection of claims 21-23 over  
16 Alperovich is not seen to add anything of significance.

17  
18 **Claims 24-27**

19 As amended, **claim 24** recites a cellular phone comprising [amended  
20 language appears in bold italics]:

- 21
- 22 • receiving means configured to wirelessly receive multiple  
23 different forms of information that pertains to a current  
24 location of a cellular phone and use said multiple different  
25 forms of information to ascertain the current location; and
  - means to modify at least one behavior associated with the  
cellular phone responsive to said information, *wherein at  
least one of said one behavior is defined by a third party.*

1  
2 Applicant has amended this claim to clarify that at least one behavior  
3 is defined by *a third party*. In making out the rejection of this claim, the  
4 Office argues that the combination of Alperovich and Kuwahara suggests  
5 the subject matter of this claim. However, Applicant has thoroughly  
6 reviewed Alperovich and Kuwahara and can find no teaching or suggestion  
7 of means to modify at least one behavior associated with a cellular phone  
8 where at least one of the modified behaviors is *defined by a third party*.  
9 Rather, Alperovich explicitly teaches that the coordinates of each of its  
10 activation locations and the corresponding action codes are entered by the  
11 *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's action codes  
12 were analogous to Applicant's modified behaviors (Applicant expresses no  
13 opinion regarding that issue), Alperovich would teach *directly away* from  
14 Applicant's claimed subject matter. Kuwahara suffers from the same defect  
15 as Alperovich because Kuwahara explicitly teaches that the *user* sets a call  
16 incoming alert mode (see column 4, line 65, through column 5, line 39). As  
17 such, the combination of Alperovich and Kuwahara would also teach  
18 *directly away* from Applicant's claimed subject matter. The Office has thus  
19 failed to establish a *prima facie* case of obviousness.

20 In making out the rejection of this claim, the Office also argues that  
21 Kuwahara anticipates the subject matter of this claim. However, as  
22 discussed above, Applicant has reviewed the Kuwahara reference and can  
23 find no teaching of the subject matter of this claim.

24 In making out the rejection of this claim, the Office puts forth a third  
25 argument – namely, that Kowaguchi anticipates the subject matter of this

1 claim. Kowaguchi teaches that data representing a plurality of transmission  
2 inhibition areas is stored in a memory. More specifically, the information is  
3 stored in the form of a “transmission inhibition area table.” Kowaguchi  
4 further teaches that a transceiver is controlled depending on whether the  
5 location of the mobile communications apparatus is within one of the  
6 transmission inhibition areas. It appears that Kowaguchi is *unable* to  
7 determine whether transmission should be inhibited at a particular location  
8 *without use of the table* stored in memory. Applicant has reviewed the  
9 reference and can find *no* disclosure of how Kowachi’s table is created. Nor  
10 can Applicant find *any* disclosure of who defines the behavior of  
11 Kowaguchi’s mobile communications apparatus. Applicant respectfully  
12 submits that Kowaguchi does not teach at least one behavior being defined  
13 by a third party.

14 Accordingly, for at least these reasons, this claim is allowable.

15 **Claims 25-27** depend from claim 24 and, as such, are allowable as  
16 depending from an allowable base claim. These claims are also allowable  
17 for their own recited features which, in combination with those recited in  
18 claim 24, are neither shown nor suggested by the references as cited and  
19 applied by the Office.

20  
21 **Claims 29-30**

22 As amended, **claim 29** recites a method of managing cellular phone  
23 behavior comprising [amended language appears in bold italics]:  
24  
25



- defining one or more cellular phone behaviors for a given location, *wherein at least one behavior is defined by a third party*; and
- wirelessly transmitting information to cellular phones within that location that permits cellular phones to automatically modify their behavior while in that location, wherein said transmitting information comprises transmitting information that is associated with a location type that has attributes that define a cellular phone behavior.

Applicant has amended this claim to clarify that at least one behavior is defined by a *third party*. In making out the rejection of this claim, the Office argues that the combination of Alperovich and Kuwahara suggests the subject matter of this claim. However, Applicant has thoroughly reviewed Alperovich and Kuwahara and can find no teaching or suggestion of a *third party* defining at least one cellular phone behavior. Rather, Alperovich explicitly teaches that the coordinates of each of its activation locations and the corresponding action codes are defined by the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's action codes were analogous to Applicant's cellular phone behaviors (Applicant expresses no opinion regarding that issue), Alperovich would teach *directly away* from Applicant's claimed subject matter. Kuwahara suffers from the same defect as Alperovich because Kuwahara explicitly teaches that the *user* defines a call incoming alert mode (see column 4, line 65, through column 5, line 39). As such, the combination of Alperovich and Kuwahara would also teach *directly away* from Applicant's claimed subject matter. The Office has thus failed to establish a *prima facie* case of obviousness.

1 In making out the rejection of this claim, the Office also argues that  
2 Kuwahara anticipates the subject matter of this claim. However, as  
3 discussed above, Applicant has reviewed the Kuwahara reference and can  
4 find no teaching of the subject matter of this claim.

5 In making out the rejection of this claim, the Office puts forth a third  
6 argument – namely, that Kowaguchi anticipates the subject matter of this  
7 claim. Kowaguchi teaches that data representing a plurality of transmission  
8 inhibition areas is stored in a memory. More specifically, the information is  
9 stored in the form of a “transmission inhibition area table.” Kowaguchi  
10 further teaches that a transceiver is controlled depending on whether the  
11 location of the mobile communications apparatus is within one of the  
12 transmission inhibition areas. It appears that Kowaguchi is *unable* to  
13 determine whether transmission should be inhibited at a particular location  
14 *without use of the table* stored in memory. Applicant has reviewed the  
15 reference and can find *no* disclosure of how Kowachi’s table is created. Nor  
16 can Applicant find *any* disclosure of who defines the behavior of  
17 Kowaguchi’s mobile communications apparatus. Applicant respectfully  
18 submits that Kowaguchi does not teach at least one behavior being defined  
19 by a third party.

20 Accordingly, for at least these reasons, this claim is allowable.

21 **Claim 30** depends from claim 29 and, as such, is allowable as  
22 depending from an allowable base claim. This claim is also allowable for  
23 its own recited features which, in combination with those recited in claim  
24 29, are neither shown nor suggested by the references as cited and applied  
25 by the Office.

1  
2 **Claims 31-35**

3 As amended, **claim 31** recites a method of managing cellular phone  
4 behavior comprising [amended language appears in bold italics]:

- 5
- 6 • providing one or more transmitters that are configured to  
7 transmit information that permits cellular phones to  
8 automatically modify ***at least one*** behavior ***defined by a third***  
9 ***party***, at least a portion of the information pertaining to one or  
10 more assigned class types individual ones of which are  
11 associated with various attributes that define the behavior of  
12 cellular phones;
  - 13 • placing the one or more transmitters in a location where a  
14 particular cellular phone behavior is desired; and
  - 15 • transmitting information using said one or more transmitters.
- 16

17 Applicant has amended this claim to clarify that the information  
18 permits cellular phones to automatically modify at least one behavior  
19 ***defined by a third party***. In making out the rejection of this claim, the  
20 Office argues that Kuwahara suggests the subject matter of this claim.  
21 However, Applicant has thoroughly reviewed Kuwahara and can find no  
22 teaching or suggestion of transmitting information that permits cellular  
23 phones to automatically modify at least one behavior ***defined by a third***  
24 ***party***. Rather, Kuwahara explicitly teaches that the ***user*** sets a call  
25 incoming alert mode (see column 4, line 65, through column 5, line 39). As  
such, Kuwahara would teach ***directly away*** from Applicant's claimed  
subject matter.

Accordingly, for at least this reason, the Office has failed to establish  
a *prima facie* case of obviousness, and this claim is allowable.

1       **Claims 32-35** depend from claim 31 and, as such, are allowable as  
2 depending from an allowable base claim. These claims are also allowable  
3 for their own recited features which, in combination with those recited in  
4 claim 31, are neither shown nor suggested by the references as cited and  
5 applied by the Office.

6  
7       **Claims 36-40**

8       **Claim 36** recites a method of managing cellular phone behavior  
9 comprising [emphasis added]:

- 10
- 11       • defining one or more *class types* each of which can be  
12       associated with a location for which a particular cellular  
13       phone behavior is desired; and
  - 14       • associating attributes with the one or more class types, the  
15       attributes defining cellular phone behavior.

16       In making out the rejection of this claim, the Office argues that  
17 Kuwahara anticipates the subject matter of this claim. Applicant maintains  
18 its position as articulated in the response to the first Office Action dated  
19 November 5, 2002. This position is reproduced below for the Office's  
20 convenience:

21       In making out the rejection of this claim, the Office argues that the  
22 claim is anticipated by Kuwahara. Specifically, the Office argues  
23 that Kuwahara's area names and zones are apparently the same as  
24 the recited class types. Applicant respectfully disagrees.

25       As noted in the specification on page 57, lines 3-17:

      In one embodiment, the association of location and behaviors  
is simplified through the use of multiple class types and

1 various attributes that are associated with the class types. *The*  
2 *class types define certain high level locations types.* Each  
3 class type's attributes define the behavior of the cell phone  
4 when it is in the vicinity of an instance of that class. As an  
5 example consider theater 1602 which is an instance of a class  
6 type 1. The attributes associated with a class type 1 are that  
7 the cell phone ringer is OFF. No other attributes are  
8 associated with this class type. Restaurant 1604 is an instance  
9 of a class type 2. The attributes associated with this class  
10 type are that the cell phone ringer is ON and the volume is  
11 LOW. Work 1606 is an instance of a class type 3. Attributes  
12 associated with this class type are that the ringer is OFF and  
13 calls are automatically forwarded to an office phone. Home  
14 1608 is an instance of a class type 4 whose attributes are that  
15 the ringer is ON and calls are automatically forwarded to a  
16 home telephone number. Sports arena 1610 is an instance of  
17 a class type 5 whose attributes include that the ringer is ON,  
18 the volume is VERY HIGH, and vibration mode is ON.

19 A class type, as defined in the specification, is an abstraction that  
20 simplifies the association of locations and behaviors. Kuwahura's  
21 zones, on the other hand, constitute specific instances of locations.  
22 For example and with reference to Kuwahara's Fig. 12, it does not  
23 appear that there would be any need or desire and, in fact, it would  
24 be inappropriate for Kuwahura to designate more than one place as  
25 "HOME", as it appears the location that corresponds to "HOME" is  
the actual home of the user who defined the area name. Specifically,  
the names and zones in Kuwahura appear to be specifically limited  
to fixed geographic locations. The recited subject matter, on the  
other hand, is not so specifically limited. For example and using the  
excerpted text above, it is quite likely that there would be many  
instances of a Restaurant class (an instance of a class type 2). Given  
the many instances of the Restaurant class, simply associating class  
type 2 with the individual instances would thus define behavioral  
attributes for cellular phones within the vicinity of the location  
instance.

Accordingly, for at least this reason, this claim is allowable.

In the Office Action dated April 9, 2003, the Office did not rebut  
Applicant's argument but withdrew the rejection utilizing Kuwahara and

1 substituted a rejection based on a different reference. The Office now  
2 reinstates the original rejection of this claim without ever responding  
3 substantively to Applicant's original argument. Applicant is doing its best  
4 to further prosecution of this application but can do nothing more than  
5 repeat its original argument until it receives a substantive response to that  
6 argument. Applicant respectfully requests the Office to either withdraw this  
7 rejection or to respond to Applicant's argument.

8 **Claims 37-40** depend from claim 36 and, as such, are allowable as  
9 depending from an allowable base claim. These claims are also allowable  
10 for their own recited features which, in combination with those recited in  
11 claim 36, are neither shown nor suggested by the references as cited and  
12 applied by the Office.

13  
14 **Claim 41**

15 **Claim 41** recites a method of managing cellular phone behavior  
16 comprising [emphasis added]:

- 17
- 18 • *defining one or more class types* each of which can be  
19 associated with a location for which a particular cellular  
20 phone behavior is desired;
  - 21 • associating attributes with the one or more class types, the  
22 attributes defining cellular phone behavior; and
  - 23 • *associating a class type with a location* for which a particular  
24 cellular phone behavior is desired.

25 In making out the rejection of this claim, the Office argues that  
Kuwahara anticipates the subject matter of this claim. Applicant maintains  
its position as articulated in the response to the first Office Action dated

1 November 5, 2002. This position is reproduced below for the Office's  
2 convenience:

3 In making out the rejection of this claim, the Office argues that this  
4 claim is anticipated by Kuwahara. Applicant respectfully disagrees.  
5 As pointed out above, Kuwahara neither discloses nor suggests a  
6 method in which one or more class types are defined and then  
7 associated with a location for which a particular cellular phone  
8 behavior is desired. In point of fact, Kuwahara teaches directly  
9 away from any such subject matter. Accordingly, this claim is  
10 allowable.

11 In the Office Action dated April 9, 2003, the Office did not rebut  
12 Applicant's argument but withdrew the rejection utilizing Kuwahara and  
13 substituted a rejection based on a different reference. The Office now  
14 reinstates the original rejection of this claim without ever responding  
15 substantively to Applicant's original argument. Applicant is doing its best  
16 to further prosecution of this application but can do nothing more than  
17 repeat its original argument until it receives a substantive response to that  
18 argument. Applicant respectfully requests the Office to either withdraw this  
19 rejection or to respond to Applicant's argument.

20 In making out the rejection of this claim, the Office also argues that  
21 the combination of Alperovich and Kuwahara suggests the subject matter of  
22 this claim. However, Applicant has reviewed the Alperovich reference and  
23 respectfully submits that Alperovich neither discloses nor suggests a  
24 method in which one or more *class types* are defined and then associated  
25 with a location for which a particular cellular phone behavior is desired.  
Rather, Alerpovich associates various action codes with particular  
*instances* of activation locations. Applicant respectfully submits that this is

1 quite different from defining *class types*, as Applicant has defined and used  
2 the term. Also, as discussed above, Applicant maintains that Kuwahara  
3 neither teaches nor suggests the subject matter of this claim. The Office has  
4 thus failed to establish a *prima facie* case of obviousness.

5 Accordingly, for at least these reasons, this claim is allowable.

6  
7 **Claims 42-47**

8 **Claim 42** recites a method of managing cellular phone behavior  
9 comprising [emphasis added]:

- 10
- 11 • *associating a class type with a location* for which a particular  
12 cellular phone behavior is desired, the class type having  
13 attributes that define the cellular phone's behavior; and
  - 14 • *wirelessly transmitting information pertaining to the class  
15 type* for reception by cellular phones in the location, the  
16 information being configured to be used by cellular phones to  
17 automatically adjust one or more behaviors.

18 In making out the rejection of this claim, the Office argues that  
19 Kuwahara suggests the subject matter of this claim. Applicant maintains its  
20 position as articulated in the response to the first Office Action dated  
21 November 5, 2002. This position is reproduced below for the Office's  
22 convenience:

23 In making out the rejection of this claim, the Office argues that this  
24 claim is anticipated by Kuwahara. Applicant respectfully disagrees.  
25 As pointed out above, Kuwahara neither discloses nor suggests a  
method in which one or more class types are defined and then  
associated with a location for which a particular cellular phone  
behavior is desired. In point of fact, Kuwahara teaches directly



1 away from any such subject matter. Accordingly, this claim is  
2 allowable.

3 In the Office Action dated April 9, 2003, the Office did not rebut  
4 Applicant's argument but withdrew the rejection utilizing Kuwahara and  
5 substituted a rejection based on a different reference. The Office now  
6 rejects this claim again based on Kuwahara without ever responding  
7 substantively to Applicant's original argument. Applicant is doing its best  
8 to further prosecution of this application but can do nothing more than  
9 repeat its original argument until it receives a substantive response to that  
10 argument. Applicant respectfully requests the Office to either withdraw this  
11 rejection or to respond to Applicant's argument.

12 In making out the rejection of this claim, the Office also argues that  
13 the combination of Alperovich and Kuwahara suggests the subject matter of  
14 this claim. However, Applicant has reviewed the Alperovich reference and  
15 respectfully submits that Alperovich neither discloses nor suggests a  
16 method in which one or more *class types* are defined and then associated  
17 with a location for which a particular cellular phone behavior is desired.  
18 Rather, Alerpovich associates various action codes with particular  
19 *instances* of activation locations. Applicant respectfully submits that this is  
20 quite different from defining *class types*, as Applicant has defined and used  
21 the term. Also, as discussed above, Applicant maintains that Kuwahara  
22 neither teaches nor suggests the subject matter of this claim.

23 Accordingly, for at least these reasons, the Office has failed to  
24 establish a *prima facie* case of obviousness, and this claim is allowable.  
25

1       **Claims 43-47** depend from claim 42 and, as such, are allowable as  
2 depending from an allowable base claim. These claims are also allowable  
3 for their own recited features which, in combination with those recited in  
4 claim 42, are neither shown nor suggested by the references as cited and  
5 applied by the Office.

6  
7       **Claim 50**

8       As amended, **claim 50** recites a method of operating a cellular phone  
9 comprising [amended language appears in bold italics]:

- 10       • providing a cellular phone; and  
11       • determining, with the cellular phone, a present cellular phone  
12       location wherein said determining comprises:  
13       ○ receiving location information;  
14       ○ accessing one or more hierarchical tree structures  
15       having nodes, ***each node being capable of***  
16       ***corresponding to either a physical or logical location;***  
17       and  
18       ○ using the location information to traverse at least  
19       portions of the one or more tree structures to ascertain  
20       the present location.

21       In making out the two rejections of this claim, the Office notes that  
22 neither Kuwahara nor Alperovich disclose a hierarchical tree structure to  
23 ascertain the present location. Applicant agrees. The Office then argues that  
24 Wax discloses a hierarchical tree structure for determining a geographical  
25 location from measured wireless signals. Applicant has, consistent with the  
specification, amended this claim to clarify that each node is capable of  
corresponding to ***either a physical or logical*** location. Applicant has  
thoroughly reviewed Wax and can find no teaching or suggestion of

1 accessing one or more hierarchical tree structures having nodes, *each node*  
2 *being capable of corresponding to either a physical or logical location.*

3 Rather, Wax appears to teach that its nodes can be associated with only a  
4 finite set of calibrated *physical* locations (see column 7, lines 34-37).  
5 Applicant can find no teaching or suggestion that Wax's nodes are capable  
6 of corresponding to *logical* locations. As such, the combination of Wax  
7 with either Kuwahara or Alperovich would teach *directly away* from  
8 Applicant's claimed subject matter.

9 Accordingly, for at least these reasons, the Office has failed to  
10 establish a *prima facie* case of obviousness, and this claim is allowable.

### 11 12 **Claims 51-53**

13 As amended, **claim 51** recites a cellular phone comprising [amended  
14 language appears in bold italics]:

- 15 • one or more computer-readable media;
- 16 • one or more hierarchical traversable tree structures resident  
17 on the computer-readable media, the tree structures  
18 comprising individual nodes, each of which *is capable of*  
19 being associated with *either a physical or logical* phone  
20 context; and
- 21 • one or more processors configured to:
  - 22 ○ receive information that pertains to a current context of  
23 the cellular phone;
  - 24 ○ automatically determine the current context based on  
25 the information by traversing at least one node on one  
of the trees; and
  - modify at least one behavior of the cellular phone  
responsive to the current context.

1 In making out the two rejections of this claim, the Office notes that  
2 neither Kuwahara nor Alperovich disclose a hierarchical tree structure to  
3 ascertain the present *location*. Applicant agrees but notes that the claimed  
4 subject matter relates to *context*, of which location is *but one example*. The  
5 Office then argues that Wax discloses a hierarchical tree structure for  
6 determining a geographical location from measured wireless signals.  
7 Applicant has, consistent with the specification, amended this claim to  
8 clarify that the each node is capable of being associated with *either* a  
9 *physical or logical* phone *context*. Applicant has thoroughly reviewed Wax  
10 and can find no teaching or suggestion of hierarchical traversable tree  
11 structures comprising individual nodes, *where each is capable of being*  
12 *associated with either a physical or logical phone context*. Rather, Wax  
13 appears to teach that its nodes can be associated with only a finite set of  
14 calibrated *physical* locations (see column 7, lines 34-37). Applicant can  
15 find no teaching or suggestion that Wax's nodes are capable of being  
16 associated with *logical* phone context. As such, the combination of Wax  
17 with either Kuwahara or Alperovich would teach *directly away* from  
18 Applicant's claimed subject matter.

19 Accordingly, for at least these reasons, the Office has failed to  
20 establish a *prima facie* case of obviousness, and this claim is allowable.

21 **Claims 52 and 53** depend from claim 51 and, as such, are allowable  
22 as depending from an allowable base claim. These claims are also  
23 allowable for their own recited features which, in combination with those  
24 recited in claim 51, are neither shown nor suggested by the references as  
25 cited and applied by the Office.

1  
2 **Claims 54-57**

3 As amended, **claim 54** recites a cellular phone comprising [amended  
4 language appears in bold italics]:

- 5
- 6 • a context service module that is configured to receive  
7 different forms of information from multiple different types  
8 of context providers; and
  - 9 • one or more processors associated with the context service  
10 module and configured to:
    - 11 ○ receive information that pertains to a current context of  
12 the cellular phone;
    - 13 ○ determine the current context based on the  
14 information; and
    - 15 ○ modify at least one behavior of the cellular phone  
16 responsive to the current context, *wherein at least one  
17 of said one behavior is defined by a third party.*

18 Applicant has amended this claim to clarify that at least one cellular  
19 phone behavior is defined by *a third party*. In making out the rejection of  
20 this claim, the Office argues that the combination of Alperovich and  
21 Kuwahara suggests the subject matter of this claim. However, Applicant  
22 has thoroughly reviewed Alperovich and Kuwahara and can find no  
23 teaching or suggestion of modifying at least one behavior of a cellular  
24 phone where at least one of the modified behaviors is *defined by a third  
25 party*. Rather, Alperovich explicitly teaches that the coordinates of each of  
its activation locations and the corresponding action codes are entered by  
the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's action  
codes were analogous to Applicant's modified behaviors (Applicant  
expresses no opinion regarding that issue), Alperovich would teach *directly*

1 *away* from Applicant's claimed subject matter. Kuwahara suffers from the  
2 same defect as Alperovich because Kuwahara explicitly teaches that the  
3 *user* sets a call incoming alert mode (see column 4, line 65, through column  
4 5, line 39). As such, the combination of Alperovich and Kuwahara would  
5 also teach *directly away* from Applicant's claimed subject matter. The  
6 Office has thus failed to establish a *prima facie* case of obviousness.

7 In making out the rejection of this claim, the Office also argues that  
8 Kuwahara anticipates the subject matter of this claim. However, as  
9 discussed above, Applicant has reviewed the Kuwahara reference and can  
10 find no teaching of the subject matter of this claim.

11 Accordingly, for at least these reasons, this claim is allowable.

12 **Claims 55-57** depend from claim 54 and, as such, are allowable as  
13 depending from an allowable base claim. These claims are also allowable  
14 for their own recited features which, in combination with those recited in  
15 claim 54, are neither shown nor suggested by the references as cited and  
16 applied by the Office. In addition, given the Office's failure to establish a  
17 *prima facie* case of obviousness or anticipation, the rejection of claim 56  
18 over Wax is not seen to add anything of significance.

19  
20 **Claim 58**

21 As amended, **claim 58** recites a cellular phone comprising [amended  
22 language appears in bold italics]:

- 23  
24 • location provider means for receiving different forms of  
25 location information;

- means for ascertaining a location from the location information; and
- means for modifying at least one behavior associated with the cellular phone responsive to ascertaining said location, *wherein at least one of said one behavior is defined by a third party.*

Applicant has amended this claim to clarify that at least one behavior is defined by *a third party*. In making out the rejection of this claim, the Office argues that the combination of Alperovich and Kuwahara suggests the subject matter of this claim. However, Applicant has thoroughly reviewed Alperovich and Kuwahara and can find no teaching or suggestion of means for modifying at least one behavior associated with a cellular phone where at least one of the modified behaviors is *defined by a third party*. Rather, Alperovich explicitly teaches that the coordinates of each of its activation locations and the corresponding action codes are entered by the *subscriber* (see column 4, lines 21-26). *Even if* Alperovich's action codes were analogous to Applicant's modified behaviors (Applicant expresses no opinion regarding that issue), Alperovich would teach *directly away* from Applicant's claimed subject matter. Kuwahara suffers from the same defect as Alperovich because Kuwahara explicitly teaches that the *user* sets a call incoming alert mode (see column 4, line 65, through column 5, line 39). As such, the combination of Alperovich and Kuwahara would also teach *directly away* from Applicant's claimed subject matter. The Office has thus failed to establish a *prima facie* case of obviousness.

In making out the rejection of this claim, the Office also argues that Kuwahara anticipates the subject matter of this claim. However, as

discussed above, Applicant has reviewed the Kuwahara reference and can find no teaching of the subject matter of this claim.

In making out the rejection of this claim, the Office puts forth a third argument – namely, that Kowaguchi anticipates the subject matter of this claim. Kowaguchi teaches that data representing a plurality of transmission inhibition areas is stored in a memory. More specifically, the information is stored in the form of a “transmission inhibition area table.” Kowaguchi further teaches that a transceiver is controlled depending on whether the location of the mobile communications apparatus is within one of the transmission inhibition areas. It appears that Kowaguchi is *unable* to determine whether transmission should be inhibited at a particular location *without use of the table* stored in memory. Applicant has reviewed the reference and can find *no* disclosure of how Kowachi’s table is created. Nor can Applicant find *any* disclosure of who defines the behavior of Kowaguchi’s mobile communications apparatus. Applicant respectfully submits that Kowaguchi does not teach means for modifying at least one behavior associated with a cellular phone where at least one of the modified behaviors is *defined by a third party*.<sup>1</sup>

Accordingly, for at least these reasons, this claim is allowable.

### **Conclusion**

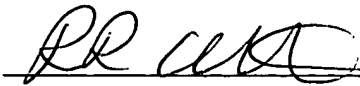
Applicant respectfully submits that all pending claims are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowability be issued. If the Office’s next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant



1 requests that the undersigned be contacted for the purpose of discussing an  
2 appeal.  
3

4 Respectfully submitted,

5  
6 Dated: 8/31/04

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